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29 May 2014

Version of attached file:

Accepted Version

Peer-review status of attached file:

Peer-reviewed

Citation for published item:

Warwick, Ben T.C. (2015) 'Beth Goldblatt and Kirsty McLean (eds) : Women's social and economic rights : developments in South Africa.', *Feminist legal studies.*, 23 (1). pp. 101-104.

Further information on publisher's website:

<http://dx.doi.org/10.1007/s10691-014-9262-4>

Publisher's copyright statement:

The final publication is available at Springer via <http://dx.doi.org/10.1007/s10691-014-9262-4>.

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BOOK REVIEW

Beth Goldblatt and Kirsty McLean (eds): Women's Social and Economic Rights: Developments in South Africa

Juta, Cape Town, 2011, 292 pp, Price £17 (PB), ISBN: 978-0-7021-8577-9

It is commonly remarked in respect of socio-economic rights that they 'lack content', that there is a 'dearth of jurisprudence' (O'Connell 2005, 79), or that there is a 'reluctance to give content to economic and social rights' (South African Human Rights Commission 2010, 13). Although these claims are undoubtedly true for some socio-economic rights and for some approaches to rights enforcement, the pages of *Women's Social and Economic Rights: Developments in South Africa* provide a useful counter to the universal validity of this argument. Through taking a thoroughly applied approach to economic and social rights and feminist theory, the contributors 'actualise' the difficulties and possibilities of rights-based and feminist approaches and give substantive content and meaning to abstract claims (p 209). The result is an insightful handbook bringing academic theories and insights to bear on the lived realities of individuals. A kind of 'feedback loop' is instituted through the pages, whereby theory both feeds into, and is influenced by, practice as the contributors demonstrate the relevance of the large and contentious debates surrounding, for example justiciability (p 272), on national and local policy while avoiding utopian theorising.

The collection, edited by Beth Goldblatt and Kirsty McLean, contains contributions from some twelve authors. A wide, but non-exhaustive, range of substantive issues are addressed including social security (ch 2), girls' rights (ch 3),

reproductive rights (ch 8), food (ch 9) and education (ch 10). The particular significance of property and land in the South African context justifies an especial focus on these issues (chs 4, 5, 6) and an analysis of women workers' rights also crosses chapters (chs 7 and 11). These substantive chapters benefit from the theoretical chapter contributed by Sandra Fredman, which provides a 'conceptual framework' (p 225) and demonstrates the power of a combined equality and socio-economic rights approach. This first chapter additionally emphasises the importance of 'engendering' rather than 'extending' socio-economic rights, and draws on Fredman's significant earlier work in this vein (Fredman 2009). This enterprise to 'infuse socio-economic rights with gender equality' is a key idea that recurs throughout the chapters of this work (for example in relation to the right to social security (ch 2), girls' social and economic rights (ch 3), and reproductive healthcare (ch 8)).

In *Women's Social and Economic Rights* the editors have brought together theoretically aware and practically engaged academics. Standards on socio-economic rights from both the South African and international contexts are invoked, often with the use of comparative examples from jurisdictions such as the US, UK, and Canada. Regional human rights standards and practice are also referred to where relevant, meaning the European Convention on Human Rights, the African Charter on the Rights and Welfare of the Child, and the Protocol on the Rights of Women in Africa are all mentioned. However, against this consistent engagement with rights frameworks it is disappointing that well-established analytical frameworks such as the accessibility, adaptability, acceptability and adequacy categorisation (CESCR 1999, paras 6-13) and the tripartite 'respect, protect, fulfil' typology (CESCR 2000, para 47) are sidelined. Beyond this generally sound engagement with rights, many of the

authors also use feminist (legal) theory to either augment their analysis or to mount a critique of the rights approach. In Ann Skelton's chapter, the feminist and human rights perspectives are portrayed as closely interwoven and mutually supportive (ch 3), while in contrast Goldblatt's chapter notes that human rights principles can be critiqued for creating 'unhelpful polarisations and hierarchies' (ch 2). The diversity of approaches to feminist theory taken within the chapters keeps the writing varied and sets it apart from other works on socio-economic rights not explicitly focused on women (see, eg, Eide et al 2001).

A further facet to this work lies in its practical application. Each chapter uses socio-economic rights frameworks and feminist theory to conduct an audit-style assessment of an area of South African policy. These examinations show up the deep complexities of implementing rights through law and policy, and in places demonstrate the deep inadequacy of legal institutions in manufacturing change. For example, the South African Department for Land Affairs' attempts to 'turn high-level policy commitments' into equality have met with difficulties in penetrating the 'gender dynamics within households' (pp 124-125). Although it is South African laws and culture that are the focus of this work, scholars and practitioners from other jurisdictions will find the conclusions and approach useful in giving content to rights frameworks in other national contexts.

Similar to this collection's application of formal legal standards to the practical policy level, is its pragmatic approach to argumentation. The authors are at ease with an approach to advocacy that has multiple strands and relies on a range of scholarships. Throughout the collection it is argued that this is reflective of the practical realities of what is described as a 'mix and match' approach taken by many South African women (p 86). As such, the understandings of the issues and the

advocacy that surrounds them in this book rely on an amalgam of pure rights-based reasoning, equality analysis and feminist theory in demonstrating the deficiencies and successes of the South African system. Indeed, although 'customary' values and 'cultural' claims are not the primary focus of the work, their influences are acknowledged as part of this broader examination of 'overlapping entitlements' (p 84).

The use of these cooperating approaches can be seen particularly strongly in the chapter focussed on rural women and land rights. Here Aninka Claassens and Sindiso Mnisi describe the great importance of customary regimes for rural land rights, while highlighting and problematising some of the distorted, static, bounded and non-contested images of custom (ch 4). They demonstrate a socio-economic rights approach, informed by the capabilities approach of Amartya Sen and Martha Nussbaum (Sen 1999; Nussbaum 2000), while 'foregrounding' the role of rights in constructing relationships of power, responsibility and trust. Referring back to Fredman's work, Claassens and Mnisi, show the 'synergistic' potential of equality and rights in the land rights context (p 87).

Prominent in this work are the overlaps, interdependencies and intersections associated with women's socio-economic rights. Although clearly all concepts with distinct meanings and each with a large accompanying body of literature, Goldblatt and McLean's collection distils these concepts and provides practical examples of their operation. Intersections between gender, race, ethnicity, class, age, marital status and sexuality are all addressed. Cheryl Walker, in her chapter, borrows Belinda Bozzoli's phrase, a 'patchwork quilt of patriarchies' to describe the multiple influences upon South African women's lives (Bozzoli 1983, 149). This 'patchwork' is also evident in Karen Kallmann's chapter which describes the overlapping burdens

of gender, rural-living and poverty (p.209), and in Muriel Mushariwa's chapter which details a 12.2% gap between the HIV infection rates of men and women (p.184).

Neither are these intersectional overlaps the only ones that the book deals with. The human rights principle of interdependence and indivisibility also underlies a great deal of the analysis. The links between food and health, education and land rights are addressed (ch.9), as are the interdependencies of the rights to housing and bodily integrity (ch.6).

Women's Social and Economic Rights is sub-titled 'Developments in South Africa', but it could equally have been branded as 'the South African Example', 'Applying the Frameworks to South Africa' or 'Lessons from South Africa'. That is to say that the contents of this book have relevance in jurisdictions well beyond the southernmost country of Africa. This is true both of the methodological approach of 'auditing' policy according to a rights framework, and of the substantive lessons on gaps, oversights and successes that legislative approaches bring.

This book deserves attention for the advances it makes in terms of socio-economic rights, but recognition is also due to its particular focus on women. The distinct positions of women and diverse groups of women underpin this publication, and in so doing make it qualitatively different from other major works in this area. This adds to the socio-economic rights project by 'adding content' to the rights while simultaneously adding to the feminist project by 'engendering' those rights. In seeking to advance women's claims, academics and activists working in other countries would do well to follow this excellent example.

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